

REMARKS

Upon consideration of the above amendments and following remarks, reconsideration and allowance of this application are respectfully requested.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 USC §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Claims 2-13, 17, 19 and 21and amended claims 1, 14-16, 18, 20 and 22 are in this application. Claims 23-26 are newly added.

At paragraph 3 of the outstanding Final Office Action of November 5, 2003 the Examiner rejected claims 1-22 under 35 U.S.C. 103(a) as being unpatentable over Rosenthal (U.S. Patent No. 6,148,301) in view of Christenson et al. (U.S. Patent No. 6,324,620) in further view of Dedrick (U.S. Patent No. 6,016,509). Applicants respectfully traverse the rejection.

Amended independent claim 1, recites in part, “An information distributing method for distributing information...determined depending on the number of times that said information has previously been distributed to all users within a predetermined time period...” (Underlining and bold added for emphasis.) Applicants respectfully traverse the rejection.

Applicants submit that the applied combination of Rosenthal, Christenson and Dedrick relied upon by the Examiner fail to depict the above-recited feature of the claimed invention. At page 3 of the present Final Office Action the Examiner stated that “the combination of Rosenthal and Christenson et al. fail to teach an inventive concept wherein the

amount billed being determined independently each time the information is distributed." The Examiner relied only on Dedrick to teach the above-mentioned limitation and therefore reject claims 1-22.

Dedrick states that a provider may have an initial hook up charge when the user connects with the system, and then subsequent charges for each minute that the user has access to a database...for each search within a content database or each time a user accesses a different library (column 1, lines 37-45). Furthermore, the cost may be pay per view, pay per byte or pay per time (column 2, lines 11-14 and column 4, lines 60-67). However, the billing process of Dedrick does not appear to depend from the number of times that all users previously accessed distributed information, as does amended independent claim 1. In the present invention, as well as in Dedrick, the billing seems to be done independently for each time the information is distributed. However, the billing system of the present invention directly depends from the number of times all users previously accessed the system and downloaded the information in order to determine a new billed cost to the users, wherein the new billed cost correlates to a predetermined distribution threshold of the information reached by the combination of all the users. Indeed, Dedrick does not appear to suggest or teach that the cost of each subsequent download is determined based upon the number of times the distributed information has been previously downloaded by all users, as does amended independent claim 1. Support for this limitation can be found at page 12, lines 14-23 of the present specification. Therefore amended independent claim 1 is believed to be distinguishable from the applied combination of Rosenthal, Christenson and Dedrick.

For reasons similar to those described above with regard to amended independent claim 1, amended independent claims 14-16, 18, 20 and 22 are also believed to be distinguishable from the applied combination of Rosenthal, Christenson and Dedrick.

Further, claims 2-13, 17, 19 and 21 depend, either directly or indirectly, from one of amended independent claims 1, 14-16, 18, 20 and 22, and therefore are believed to be distinguishable from the applied combination of Rosenthal, Christenson and Dedrick for this reason alone.

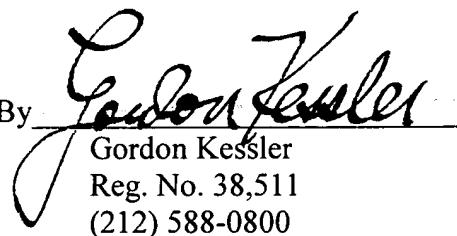
Applicants therefore, respectfully request that the rejection of claims 1-22 under 35 U.S.C. §103(a) be withdrawn.

Applicants have further added new claims 23-26. Applicants submit that the 35 U.S.C. 103(a) rejection relied upon by the Examiner does not apply to claims 23-26, and submit that the rejection of these claims over 35 U.S.C. 103(a) would be improper.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the Applicants' undersigned attorney and, in the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where, in the reference or references, there is the basis for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 
Gordon Kessler
Reg. No. 38,511
(212) 588-0800